

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 7349 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

MADHUBEN RASIKLAL RATHOD

Versus

KISHORBHAI JALAMSINH PARMAR

Appearance:

MR MJ DAGLI for Petitioners
NOTICE NOT RECD BACK for Respondent No. 1
MR YOGESH S LAKHANI for Respondent No. 2
UNSERVED-REFUSED (N) for Respondent No. 3
MR DARSHAN M PARIKH for Respondent No. 4

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

Date of decision: 19/04/99

ORAL JUDGEMENT (Per J.N.Bhatt, J.)

Admit. Service of notice is waived by learned advocate Mr Lakhani for respondent No.2 whereas for respondent No.4, learned advocate Mr Darshan M. Parikh waives service of notice. Learned advocate Mr A.M.Dagli

appearing for the appellants-original claimants sought permission to delete respondents Nos.1 & 3 who are not necessary parties. Therefore, permission to delete respondents Nos.1 & 3 is granted.

Learned advocate for the appellants has submitted that the amount awarded by way of compensation at Rs.1,31,240/- is inadequate. After having considered the facts and circumstances of the present case and the evidence, we are of the opinion that the amount of compensation awarded by the Tribunal to the appellants-original claimants for the unfortunate demise of their bread-winner, Rasiklal Rathod, in a road accident which occurred on 26.5.89 at about 7.00 p.m.. near Limdi between a motor car driven by the deceased and a ST bus is on the lower side. The appellants-original claimants filed claim petition being MACP No.294/90 and claimed an amount of Rs.5,70,000/- by way of compensation, inter alia, contending that the deceased was a driver and he was aged about 42 and he was the main bread-winner of the family and would have contributed for the family for a long time. Considering the facts and circumstances and the evidence on record, the Tribunal awarded the aforesaid amount. Hence this appeal.

Considering the facts and circumstances and the evidence and the age and avocation of the deceased, we are of the opinion that an additional amount of Rs.35,000/- (Rupees thirtyfive thousand) will meet the ends of justice more so when the multiplier applied is only 12 by the Tribunal when the age of the deceased was proved to be 42 as it will be just and reasonable amount.

In view of the above facts and circumstances, the appeal is required to be allowed partly with the aforesaid modification. Obviously, the interest at the rate of 12 per cent per annum awarded by the Tribunal will apply from the date of application till the date of realisation even in case of the additional amount awarded.

In the result, the appeal is partly allowed to the aforesaid extent. The impugned judgment and award shall stand modified accordingly. The additional amount awarded by this judgment shall, obviously, be payable by respondent No.2, original opponent No.2, Gujarat State Road Transport Corporation.

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